



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,139	10/03/2000	Susan H. Mathews	17242-007300US	6541

20350 7590 05/22/2002

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/679,139	MATTHEWS, SUSAN H.	
Examiner	Art Unit	
Fredrick C Conley	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 February 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3,5-12 and 14-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3,5-12 and 14-22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

09/679, 139
AU 3673

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 5-6, 9 13-14, 18-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,546,620 to Matthews in view of U.S. Pat. No. 5,930,854 to O'Neill.

In reference to claims 1, 9, 11-12 14-15, and 17-22, Matthews discloses a pillow body comprising a filler material (col. 3 lines 32-43), and a medial region between a pair of opposing arms that form an open well (fig. 2 and 4) with a plurality of attachment mechanisms (50,50',50'') to permit a toy to be coupled to the pillow. Matthews fails to disclose a bar that is positioned over the pillow. O'Neill discloses a play kit comprising a pillow body having a pair of curved bars 6 with their ends attached 16 to a removable pillow cover 12, and a toy coupled to the bars. It would have been obvious to one of ordinary skill in the art at the time of the invention to position bars over the pillow body and employ a removable cover in order to stimulate the infant.

With regards to claims 2, 11, wherein the bar is curved so that the middle section is disposed above the pillow (O'Neill; fig. 1).

With regards to claims 3, 12, and 18-21, further comprising another bar (O'Neill; fig. 2) wherein each bars comprises two ends/feet (fig. 1-2).

With regards to claims 5 and 14, wherein the pillow includes four attachment mechanisms (16; O'Neill).

With regards to claims 6 and 15, further comprising at least one toy (34 O'Neill).

With regards to claim 17, the attachment members comprising a loop material (Matthews; col. 4 lines 15-24).

3. Claims 7-8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,546,620 to Matthews in view of U.S. Pat. No. 5,930,854 to O'Neill, and further in view of U.S. Pat. No 4,722,713 to Williams et al.

In reference to claims 7-8 and 16, O'Neill discloses all of the Applicant's claimed limitations except for the coupling mechanism having a strip of material and a snapping device. Williams discloses coupling mechanism for suspending baby toys having a strip of material and a fastening member. It would have been obvious to one of ordinary skill at the time the invention was made to employ the coupling mechanism taught by Williams in order to suspend a toy above a baby.

With regards to claim 7, the Examiner is taking official notice that snaps and hook and loop fasteners are art related equivalents and one functions in the same manner as the other.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,546,620 to Matthews in view of U.S. Pat. No. 5,930,854 to O'Neill, and further in view of U.S. Pat. No 3,911,512 to Plate.

In reference to claim 10, Matthews discloses all of the Applicant's claimed limitations except for having a zipper. Plate discloses a pillow with a removable cover having a zipper. It would have been obvious to one having ordinary skill in the art to employ the use of a zipper in order to selectively open and close the cover.

Response to Arguments

5. Applicant's arguments with respect to claims 1-12 and 14-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick Conley whose telephone number is (703) 308-7468.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.


May 16, 2002


HEATHER SHACKELFORD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3800